IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTYTHIRD DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 10162 of 2004

Between:

1. G.V.V.Satyanarayana Murthty,
   S/o Rama Murthy, Aged 50 yrs, Sr. Assistant;
2. M.C.S.Bhavani Prasad S/o Apparao,
   Aged 46 yrs, Sr. Assistant;
3. Y.Ch.Prasad, S/o Seshagiri Rao,
   Aged 50 yrs, Jr. Assistant;
4. V.Srinivasa Rao, s/o Adinarayana,
   Aged 43 yrs, Office Superintendent;
5. V.Venkateswara Rao, s/o Narayana Rao,
   Aged 41 yrs, Lab Assistant;
6. A.Koteswara Rao, so Venkata Ratnam,
   Aged 57 yrs, Record Assistant;
7. B.Venkateswara Rao, s/o China Pallayya,
   Aged 46 yrs, Jr. Instructor;
8. Y.V.V. Satyanarayana, s/o Lakshmana Swamy,
   Aged 45 yrs, Lab Assistant;
9. P.Subba Rao, s/o Satyanarayana Murthy,
   Aged 48 yrs, Lab Assistant;
10. T.Seshagiri Rao, s/o Satyanarayanamurthy,
    Aged 41 yrs, Jr. Instructor;
11. G.Venkata Swamy, s/o Visweswara Rao,
    Aged 42 yrs, Jr. Instructor;
12. G.Ranga Rao, s/o Suryanarayanamurthy;
    Aged 49 yrs, Typist;
13. B.Lakshmana Swamy, s/o Venkataratnam,
    Aged 44 yrs, Lab Assistant;
14. A.Vishnu Murthy, s/o Chinasubba Rao,
    Aged 45 yrs, Jr. Instructor;
15. S.V.V.Satyanarayana, s/o Venkata Ratnam,
    Aged 49 yrs, Sr. Instructor;
16. D.Venkata Reddy, S/o Venkanna,

Aged 45 yrs, Sr. Instructor;
17.G.Venkatasesha Talpa Sai, s/o Srirama Murthy,
Aged 45 yrs, Lab Assistant;
18.V.Seshagiri Rao, s/o Satyananda Rao,
Aged 50 yrs, Junior Assistant;
19.K.V. Venu, s/o Krishna Rao,
Aged 42 yrs, Physical Director;

20.B.Pardha Saradhi, s/o late B.N.Murthy,
Aged 49 yrs, Head of Mechanical Engineering

All are working in M.R.K. Polytechnic, Veeravasaram, R/o Veeravasaram, W. G. District

..... PETITIONER(S)

AND

1. The All India Council for Technical Education, Southern Regional Office, Sastry Bhavan, 26-Haddows Road, Nungambakam, Chennai.
2. The Government of Andhra Pradesh, rep. by its Principal Secretary,
Higher Education Department, A.P.Secretariat, Hyderabad.
3. The Commissioner, Technical Education, 5th Floor, BRKR Bhavan, Hyderabad.
4. The Secretary & Correspondent,
M.R.K. Polytechnic, Veeravasaram, W.G. (Dt)

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Mandamus declaring the action of the 1st respondent in withdrawing the approval granted to the 4th respondent Polytechnic by its proceedings in F.No. AP–88– 969/DIP/2004/5278, dt 14-6-2004 as illegal, arbitrary and contrary to law and consequently set aside the same.

For the Petitioners: Mr. Polisetti Radha Krishna, Advocate

For the Respondent: Sri S.S.Prasad, Senior Counsel for R-1

Kum. Sindhu Kumari,

Government Pleader for
Higher Education

for R-2&3

For R-4: None appeared

The Court Made the Following :

Petitioners are teaching and non-teaching staff of MRK Polytechnic, Veeravasaram, W.G. District. The Polytechnic was not paying salaries to the teaching and non-teaching staff since March 2002. Some of the employees filed writ petitions and obtained interim orders directing the management of the Polytechnic (an unaided educational institution) to pay them arrears of salary and continue to pay them the current salaries. This order was not implemented. The aggrieved, the employees thereupon filed contempt cases. In C.C. No.121 of 2004 this court by the order dated 17.3.2004, *inter alia*, called upon the All India Council for Technical Education (AICTE) to report as to how extension of approval for the institution was granted and permitted to be in existence despite the conditional extension of approval granted on 25.8.2003 – the condition being that the management pays arrears of salaries due to its employees by 31.3.2004, in the context of a fact situation where no salaries whatsoever or any arrears were paid to any of the employees even after such date. The State Government

and the AICTE who are rather prompt in granting recognition or approvals for educational institutions are seen to be remiss in exercising periodical inspection and check to ensure that such approved or recognised educational institutions confirm to the requirements of law including the obligation to pay salaries to their employees.

Sensitised to the glaring deficiency in its supervisory functions, by the order of this court dated 17.3.2004 in C.C. No.121 of 2004, the AICTE by the proceedings impugned herein dated 14.6.2004 withdrew the extension of approval granted to MRK Polytechnic, Veeravasaram, for the academic year 2004-2005. The petitioners faced with the deprivation of even the facade of employment are therefore before this court. They challenge the order on the ground that no opportunity was afforded to them and that the State Government could have taken over the management of the institution on account of its mal-administration instead of bringing about its closure as is effected by the impugned order.

The grant of approval or the withdrawal of approval already granted conditionally, is an aspect within the discretion of the AICTE, a discretion conditioned by the regulations governing the grant of approvals for technical institutions. The Polytechnic management, as is apparent from the regnal failure to pay salaries to its employees from March 2002, is seen to have a dismal and recidivist record

of mis-management of the institution. Continuance of this institution, as is apparent from the facts on record, is not in the public interest. The decision of the AICTE to withdraw the conditional approval granted for the current academic year cannot therefore be faulted on any substantive ground. The petitioners, as employees of the Polytechnic do not have any right to be consulted or heard before withdrawal of the conditional approval granted for the current academic year, in the circumstances where the condition has been demonstrably violated by the management. It is at their instance (they were the petitioners in C.C. No. 121 of 2004) that the order dated 17.3.2004 in C.C. No. 121 of 2004 was issued by this court, which has triggered the response by the AICTE culminating in the impugned order. The aggrieved institution MRK Polytechnic, Veeravasaram, has not challenged the order impugned herein.

The other contention that the Government should have taken over the institution, is founded on Clause-13 of the terms and conditions prescribed for fulfilment by the MRK Polytechnic, Veeravasaram, in the order of the State Government dated 28.8.1981 in G.O. Ms.No. 621 Labour, Employment, Nutrition and Technical Education 9T.E.I) Department, whereby permission was granted by the State Government for establishment of the Polytechnic. Clause-13 of the terms and conditions (in Annexure-I) reads as under:

" Terms and Conditions Prescribed for fulfilment by the private Polytechnics permitted by the Government without financial aid from the Government.

... ...

13. The Government shall reserve the right to take over the management with all its assets at any time 10 years after the starting of the Institution without payment of any compensation to the society management running the institution or close it down if the Government deems it fit."

On a true and fair construction or any reasonable interpretation of the phraseology employed in this clause it cannot be inferred that the Government has undertaken the liability to manage the MRK Polytechnic, Veeravasaram. The clause only means that the State Government is at liberty to take over the management if it deems fit. In the myriad complexities of the administrative life of the State whether it should take over the additional responsibility of running a failing or terminal sick polytechnic, is a policy choice that is consecrated to discretionary choice the executive branch of the State. This court finds no warrant for a strained interpretation of the clause, to construe a facilitating provision into a binding obligation of the State. On this analysis there are no merits in the second contention either.

For the above reasons the writ petition is without merit, beseeches dismissal and is accordingly dismissed. No costs.

Date: 23/06/2004 ----------

Pvsn Justice G. RAGHURAM

To

1. All India Council for Technical Education, Southern Regional Office, Sastry Bhavan, 26-Haddows Road, Nungambakam, Chennai.
2. Government of Andhra Pradesh, rep. by its Principal Secretary, Higher Education Department, A.P.Secretariat, Hyderabad.
3. The Commissioner, Technical Education, 5th Floor, BRKR Bhavan, Hyderabad.
4. The Secretary & Correspondent, M.R.K. Polytechnic, Veeravasaram, W.G. (Dt)
5. Government Pleader for Higher Education – 2 copies on usual terms
6. 2CD copies